

2. The objection by the Commissioner to the magistrate judge's report and recommendations as to plaintiff's physical residual functional capacity is granted and the magistrate judge's finding and recommendation as to such issue is not accepted;

3. The motion for summary judgment by the Commissioner is denied;
4. The final decision of the Commissioner is **vacated** and the case is **remanded** to the Commissioner for further consideration pursuant to the Opinion accompanying this Final Judgment; and
5. The clerk is directed to close the case.

ENTER: October 4, 2010

/s/ JAMES P. JONES
United States District Judge